REMARKS

Claims 1, 3, 4, 9 and 10 are rejected as obvious under 35 U.S.C. 103(a) as being unpatentable over using Adobe Photoshop in view of Macro Media Flash MX (R. Chrissy, 2002). The Applicant acknowledges and respectfully traverses the raised obviousness rejections in view of the above amendments and the following remarks.

As the Examiner is aware, in order to appropriately support a combination of references, the references themselves must provide some level of disclosure or teaching that would lead one of ordinary skill in the art to combine the references in the manner as suggested in the official action. While recent case law, namely *KSR International Co. vs. Teleflex Inc.* et al. may have arguably narrowed the specific teaching, suggestion and motivation test for obviousness, the fact remains that any combination of references must still be supported with some articulated rational beyond subjective conclusory statements. Whatever the status of the current test for obviousness, it is important to note that the US Supreme Court cautions against mere conclusory statements of obviousness and has called for "[s]ome articulated reasoning with some rational underpinning".

It is clear from the Court that the combined references must still have at least some level of relevance to one another and thus provide some level of disclosure or teaching which would support a combination which can be rationally, and convincingly explained. The reasoning in the official action that it would be obvious to a person in ordinary skill in the art to play animation repeatedly in the method of using Adobe Photoshop 5 because of the motivation that video can be played repeatedly with single convenient GUI function, is no more or less obvious than it is to have any computer program repeat any particular command in the program over and over again. What this allegation and argument fails to take into consideration is the very nature of the references themselves which is of course still the key to supporting an obvious objection.

Adobe Flash Micro-media Player MX is a set of multi-media software which is generally used for adding animation and interactivity to web pages. Importantly, Adobe Flash can manipulate vector and raster graphics and is a popular method for adding animation and interactivity to web pages and creating animation advertisements and various web components as well. Flash contains a scripting language called Action Script which is essentially a graphic language and entirely different from any sort of photo management or photo manipulation program. Adobe Photoshop on the other hand is a graphics editing

program generally used for commercial map and image manipulation. While Photoshop can manipulate images and apply changes to 3D models or 2D images even and convert gradient maps to 3D objects including adding depth to layers and text it is an entirely different program from that of Micro-Media Flash MX. The only similarity between these programs for the most part is that they are both owned and sold under the Adobe Systems Commercial heading. Interestingly, Adobe even promotes and sells Photoshop under the Photoshop family of products. This family of products and displayed on Adobe's website does not include the Adobe Micro-Media Flash MX player.

The Adobe Flash products are sold under an entirely different family and as discussed above facilitate the authoring environment for building websites for example. While it might be true that a person using Photoshop would look to other similar photographic manipulation programs for ideas or related photographic manipulation, it is the Applicant's position that they would do so in other photo manipulation programs and not look to a Flash MX player authoring program. In other words, these are entirely different programs and perform almost entirely separate functions and therefore it is the Applicant's position that these references are so different and specifically focused on different digital data manipulation that no one of ordinary skill in the art would look from either reference, to the other reference, to solve any problem or issue.

Even if the applied references can be combined as alleged by the Examiner, and the Applicant does not concede this point hereby, the references either alone or in combinations still fail to disclose, teach or suggest at least one of the limitations in Claim 1.

In order to further clarify the novel aspects of the present invention the Applicant has amended Claim 1 to recite the additional steps of :

> d) ensuring the video loop continuously follows a path through the useful ranges of each of the two or more one-dimensional image characteristic controls from a nominal state through a transition state and back to the nominal state; and
>
> e) defining the entire length of the path in the transition state according to different useful range values of each of the two or more one-dimensional image characteristic controls.

This aspect relating to the nature of the path of the trajectory through the n-dimensional space of the present invention is not taught, disclosed or suggested in any manner by either of the cited references either alone or in combination.

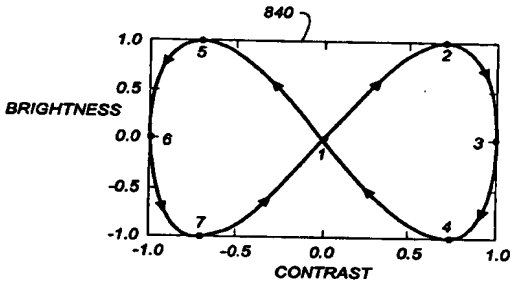


FIG. 8

As seen in Fig. 8 above and discussed at pg. 7, ll. 24-25, the loop completes a cycle with the image, starting from its initial nominal state 1 and then traverses the proscribed path 2,3,4 and returns to the nominal state 1 without using any of the same values throughout its entire trip. This is not the case in the Flash MX program where the user chooses an initial shape and a final shape, and then the program creates "...intermediate shapes to tween from one shape to the next" Pg. 8 of safaribooksonline.com reference. In this regard, although the reference discloses a control/Loop Playback command, this command merely plays over and over again the morphing of one shape to another in one direction. In other words, Flash MX creates a finite path from a starting shape to an ending shape, where the finite path ends at an entirely different point than where it started. Then, the loop playback command performs this finite path again, skipping back to the initial shape to "tween" to the final shape again. Such a playback command is in no manner, "ensuring the video loop *continuously* follows a path through the useful ranges of each of the two or more one-dimensional image characteristic controls from a nominal state through a transition state and back to the nominal state;" (emphasis added) as currently recited in claim 1.

It is not clear from the description in the reference, but the "tween" could conceivably be run forwards, then backwards from the ending shape to the starting shape. If this were true, it would of course have to use the same "tween" shapes that Flash MX developed in the forward morphing of the shapes. Again, even if this is now the playback loop in Flash MX occurs it is not "defining the

entire length of the path in the transition state according to *different useful range values* of each of the two or more one-dimensional image characteristic controls. (emphasis added). Support for this claim language is specifically found in Fig. 8 as shown above and is explicit in the written description at pg. 7, ll. 22-28:

> The loop completes with contrast less than zero as brightness is again brought to a maximum (position 5), then a minimum while bringing contrast to a minimum (position 7). The loop completes one cycle with the image and is again returned to it's nominal state. In this example, not every combination of brightness and contrast are rendered. Since these controls are continuous, an infinite number of frames would be required, and it is not possible to render all possible combinations.

This feature is explicitly discussed at Applicant's page 7 lines 14-25 in the discussion of the within the trajectory in the 2D space is also clearly shown in Fig. 8. This is an important aspect of the present invention where continuously cycling through such a nominal state according to unrepeated trajectory path values is critical in the comparison by the user of the manipulation and rendering of the underlying image characteristics.

Turning to independent claim 5, the Applicant has also clarified this claim to include a step where the trajectory path is maintained for a period, at least in one dimension, constant. This claim now recites the step of, "d) defining a portion of the trajectory path through the range-limited n-dimensional space having at least one of the plurality of image characteristic controls *maintained substantially constant* while the trajectory path continues traversing the limiting ranges of remaining image characteristic controls." (emphasis added). Again, this aspect of the present invention aids the viewer of the image in observation and comparison of the manipulation and rendering of the underlying image characteristics because for this period, really only one of the characteristic controls is being changed as seen in Fig. 8. The viewer is therefore not overwhelmed by the complexity of the entire plurality of changing image controls. Support for this step is also found in Fig. 8 above and at pg. 7, ll.17-25

Additionally, the Applicant notes that the video loop of the Applicant's present invention is automatic, in other words, as discussed in the

previous response this video loop does not require a user to move a slider or some other type of control to create a "video effect", as the Examiner states regarding the sited art of Adobe Photoshop 5. Instead, the Applicant's video loop is an actual loop that plays automatically, continuously and is perceptibly smooth in its appearance. Near forward/backward movement of a slider with an Adobe Photoshop does not produce these features. Specifically, where the user slides the slider to a specific position and releases the slider, the slider stops and the actuation of whatever characteristics have been applied to the underlying photo. In other words the Applicants video loop is automatic and plays without intervention, until the user decides upon which image appearing in the loop he or she desires most based upon the rendering preformed upon the particular image. In this regard independent claim 1 recites that the continuous video loop is *continuously* cycled in a loop beginning and ending in a nominal setting of the captured image. This is actually taught away from by the automatic slider where user intervention is required.

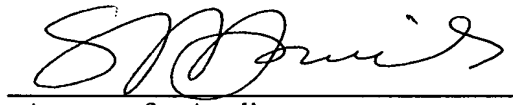
In view of the above amendments and remarks the Applicant summarizes the above by noting that in neither of the references, either alone or in combination is it taught, disclosed, or suggested that the loop is continuous and does not double back on itself i.e. reuse any of its values in the range defining the trajectory path in returning to a nominal value. Nor do the references disclose any portion of a trajectory path which is maintained substantially constant for a period of time or space. Therefore, it is the Applicant's position that the present invention constitutes a non-obvious step over using Adobe Photoshop in view of Macro Media Flash MX (R. Chrissy, 2002), and it is respectfully requested in view of the above amendments and remarks that the raised § 103 rejection should be withdrawn at this time.

Applicant submits that this Amendment After Final Rejection places this application in condition for allowance by amending claims in manners that are believed to render all pending claims allowable over the cited art and/or at least place this application in better form for appeal. This Amendment is necessary because it has become clear that prior versions of the claims did not explicitly claim the above noted aspects of the present invention. This amendment was not earlier presented because Applicant believed that the prior response(s) placed this

application in condition for allowance, for at least the reasons discussed in those responses. Accordingly, entry of the present amendment as an earnest attempt to advance prosecution and/or to reduce the number of issues is requested under 37 C.F.R. §1.116.

Therefore, in light of the above remarks and amendments, Applicant requests that Examiner withdraw the raised rejection at this time and place the application in condition for allowance. The Examiner is respectfully requested to withdraw the outstanding rejection and to pass the subject application to Allowance.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.